

REGULAR MEETING
APRIL 6, 2009

IN CITY COUNCIL
ABSENT:

CONVENED:
ADJOURNED:

1. Minutes, City Council Meeting, March 23, 2009.
2. PUBLIC HEARING: On the Application for Revised Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 69 retirement units on less than 14 acres and to revise current permit conditions accordingly.
3. PUBLIC HEARING: On the Application for Special Permit from Hancock Associates, on behalf of Marlborough Savings Bank, for drive-thru teller and ATM at proposed 16,500 sq. foot bank/office building at 81 Granger Blvd.
4. Communication from the Mayor re: budget transfer request in the amount of \$75,000.00 to move funds from Undesignated to Water MR Plant.
5. Communication from the Mayor re: abbreviated budget authorization format as recommended by the Department of Revenue Financial Review and adopted by FY09 Council Order 08-1001893 which is due to expire on June 30, 2009 per its "Sunset Clause" provision.
6. Communication from the Mayor re: update on the search process for the Director of Personnel, Order No. 09-1002118B.
7. Communication from the City Solicitor re: New Cingular Wireless PCS for 860 Boston Post Rd. East in proper form, Order No. 08/09-1002083A-1.
8. Application of Tony Bittar, d/b/a Hannoush Jewelers, for Junk Dealer's license.
9. Communication from MetroWest Growth Management Committee re: advantages of a full time City Planner.
10. Communication from Metropolitan Area Planning Council re: advantages of a full time City Planner.
11. CLAIMS:
 - A. Valerie Harding, 389 Sudbury St., other property damage
 - B. Walter Oranian, 99 Pleasant St., other property damage
 - C. Manuel Rego, 193 Stevens St., residential mailbox
 - D. Laura Wilner, 172 Stearns Rd., residential mailbox

REPORTS OF COMMITTEES:

12. ORDERED: That the City Council take a formal vote at the regular meeting of April 6, 2009 to adopt either a line item budget for FY 2010 or a category-based budget and forthwith notify the Mayor of the body's decision.Submitted by Councilor Schafer
13. ORDERED: That the Operations and Oversight Committee obtain information concerning the asset control policies and procedures put in place last year with respect to monies received and/or collected by the City.Submitted by Councilor Schafer
14. ORDERED: That the DPW Commissioner take the following steps in connection with budgetary issues previously discussed by the City Council and in keeping with other municipal departments in the City:
 - Prepare the DPW 2010 Operating Budget, to include a three percent reduction from the FY2009 budget, similar to the request made of the School Department;
 - Reduce the number of DPW employees by four (4) which is the number of vacant positions in the Commissioner's report, "DPW OPERATIONS REVIEW: FORESTRY, PARKS AND CEMETERIES," delivered to the City Council in October 2008 and discussed with the Operations & Oversight Committee in subsequent hearings;
 - Take steps to privatize minimal lawn maintenance functions as discussed with the Operations & Oversight Committee.Submitted by Councilor Pope

UNFINISHED BUSINESS:

From Personnel Committee

15. **Order No. 09-1002148 – Communication from the Mayor with the appointment of James Confrey to the Board of the Council on Aging with a term to expire May 1, 2010. Recommendation of the Personnel Committee is to recommend approval 2-0. Councilor Delano was absent.**

From Legislative and Legal Affairs Committee

16. **Order No. 09-1002123 – Communication from Council President Vigeant re: One-Man, One-Vote, Assabet Valley Regional Vocational School.** The committee heard from Superintendent Mary Jo Nawrocki regarding the history of the One-Man, One-Vote court ruling and the need to adopt one of five options identified to bring Assabet Valley into compliance with respect to the composition and election of their school committee. The Assabet Valley School Committee recommended Option 3, Electing members with residency requirements in a district-wide election. The committee also received a communication from Mayor Stevens laying out the several reasons she believed Option 3 was not in the best interest of the City. The Mayor further recommended that Option 4, Weighing the votes of elected committee members according to the population they represented, was a more practical and equitable method. The committee concurred with the Mayor's opinion. **Recommendation of the Legislative and Legal Affairs Committee is to recommend that representation on the Assabet Valley Regional Vocational High School District Committee be amended by adoption of Option #4 – Weighing the votes of elected committee members according to the population represented, approved 2-0. Councilor Clancy was absent.**

From Finance Committee

17. **Order No. 09-1002147 - Communication from the Mayor regarding the grant awarded to the Marlborough Police Department from the Commonwealth of Massachusetts Executive Office of Public Safety and Security in the amount of \$69,262.00 to be used for Emergency Telecommunications expenses (including dispatcher salaries) and furniture replacement for dispatch center in accordance with MGL, Chapter 44, Section 53A for purposes outlined. Recommendation of the Finance Committee is to recommend approval 4-0. Councilor Ossing was absent.**

From Wireless Communications Committee

18. **Order No. 08/09-1002083A - Application of New Cingular Wireless PCS for a Special Permit for co-location, construction and operation of a wireless communications facility on and next to the existing multi-carrier monopole located at 860 Boston Post Rd. East. Recommendation of the Wireless Communication Committee is to recommend approval, per draft decision submitted by Petitioner, as amended, and to be further amended by the City Solicitor for final action by the City Council on April 6, 2009 & to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the April 6, 2009 agenda 2-0. Councilor Schafer was absent.**



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK
Lisa M. Thomas
140 Main St.
Marlborough, MA 01752
(508) 460-3775 FAX (508) 460-3723
MARCH 23, 2009**

Regular meeting of the City Council held on Monday March 23, 2009 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors present: Levy, Ossing, Pope, Vigeant, Delano, Ferro, Schafer, Juairé, Seymour, Clancy and Landers. Meeting adjourned at 9:12 p.m.

ORDERED: Minutes, City Council Meeting, March 9, 2009, **FILE AS AMENDED**; adopted.

ORDERED: That the temporary appointment of Karen Kisty as Personnel Director, refer to **RULES COMMITTEE AND THE ATTORNEY GENERAL'S OFFICE**; adopted.

ORDERED: That the re-advertising process for position of Personnel Director and permanent appointment of Karen Kisty as Personnel Director per statutory deadline of March 9, 2009 to submit another permanent appointment, **TABLED**; adopted.

ORDERED: That the budget transfer request in the amount of \$10,000.00 which moves funds from Undesignated to Public Safety which represents the first installment by Genzyme in satisfaction of condition #12 of the First Student Special Permit #07-1001650B, **REFER TO FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 100-35900 \$10,000.00
Undesignated Fund

TO:

Acct. # 83600-32701 \$10,000.00
Public Safety

ORDERED: That the SFY2009 Mass Decontamination Unit (MDU) grant awarded to the Marlborough Fire Department from the Commonwealth of Massachusetts Executive Office of Health and Human Services Department of Public Health in the amount of \$3,000.00 which will facilitate the field deployment, training and operational readiness of a mobile Mass Decontamination Unit, and in accordance with MGL, Chapter 44, Section 53A for purposes outlined, **APPROVED**; adopted.

ORDERED: That the communication from the Planning Board regarding request to amend Marlborough's Sign Ordinance, Section 163-2 and Section 163-12 which is enumerated Chapters 526-2 and 526-12(D) in the new City of Marlborough General Code, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the communication from DPW Commissioner, Ronald LaFreniere, re: response to the City's solid waste and recyclables disposal program, Order No. 08-1001923, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, May 11, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Attorney Valeriani, on behalf of Verizon Wireless, to permit, construct, operate and maintain a wireless communications facility at 303 Boundary St., be and is herewith refer to **WIRELESS COMMUNICATIONS COMMITTEE AND ADVERTISE**; adopted.

- ORDERED: That the minutes, Board of Assessors, March 16, 2009, **FILE**; adopted.
- ORDERED: That the minutes, Conservation Commission, February 5, 2009, **FILE**; adopted.
- ORDERED: That the minutes, Planning Board, February 23, 2009, **FILE**; adopted.
- ORDERED: That the minutes, MetroWest Regional Transit Authority, January 26, 2009, **FILE**; adopted.
- ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.
- A. Vivienne Foster-Erlandson, 99 Wilson St., residential mailbox
 - B. John Kovach, 47 McNeil Cir., residential mailbox
 - C. Joseph Biggs, 142 Beach St., other property damage
 - D. Donald Armstrong, 371 Stow Rd., residential mailbox

Reports of Committees:

Councilor Clancy reported the following out of the Personnel Committee:

Order No. 09-1002148 – Communication from the Mayor with the appointment of James Confrey to the Board of the Council on Aging with a term to expire May 1, 2010. Recommendation of the Personnel Committee is to recommend approval 2-0. Councilor Delano was absent.

Councilor Levy reported the following out of the Legislative and Legal Affairs Committee:

Order No. 098-1002123 – Communication from Council President Vigeant re: One-Man, One-Vote, Assabet Valley Regional Vocational School.

The committee heard from Superintendent Mary Jo Nawrocki regarding the history of the One-Man, One-Vote court ruling and the need to adopt one of five options identified to bring Assabet Valley into compliance with respect to the composition and election of their school committee. The Assabet Valley School Committee recommended Option 3, Electing members with residency requirements in a district-wide election.

The committee also received a communication from Mayor Stevens laying out the several reasons she believed Option 3 was not in the best interest of the City. The Mayor further recommended that Option 4, Weighing the votes of elected committee members according to the population they represented, was a more practical and equitable method.

The committee concurred with the Mayor's opinion.

Recommendation of the Legislative and Legal Affairs Committee is to recommend that representation on the Assabet Valley Regional Vocational High School District Committee be amended by adoption of Option #4 – Weighing the votes of elected committee members according to the population represented, approved 2-0. Councilor Clancy was absent.

Councilor Ferro reported the following out of the Finance Committee:

Order No. 09-1002147 - Communication from the Mayor regarding the grant awarded to the Marlborough Police Department from the Commonwealth of Massachusetts Executive Office of Public Safety and Security in the amount of \$69,262.00 to be used for Emergency Telecommunications expenses (including dispatcher salaries) and furniture replacement for dispatch center in accordance with MGL, Chapter 44, Section 53A for purposes outlined. **Recommendation of the Finance Committee is to recommend approval 4-0. Councilor Ossing was absent.**

Councilor Delano reported the following out of the Wireless Communication Committee:

Order No. 08/09-1002083A-1 - Application of New Cingular Wireless PCS for a Special Permit for co-location, construction and operation of a wireless communications facility on and next to the existing multi-carrier monopole located at 860 Boston Post Rd. East. Recommendation of the Wireless Communication Committee is to recommend approval, per draft decision submitted by Petitioner, as amended, and to be further amended by the City Solicitor for final action by the City Council on April 6, 2009 & to Suspend the Rules to refer to City Solicitor to be put in proper form and place item on the April 6, 2009 agenda 2-0. Councilor Schafer was absent.

Suspension of Rules requested - granted

ORDERED: That the application for Special Permit from New Cingular Wireless PCS. for a Special Permit for co-location, construction and operation of a wireless communications facility on and next to the existing multi-carrier monopole located at 860 Boston Post Rd. East, refer to **CITY SOLICITOR TO BE PUT IN PROPER FORM FOR APRIL 6, 2009 CITY COUNCIL MEETING**; adopted.

ORDERED: That the DPW Commissioner take the following steps in connection with budgetary issues previously discussed by the City Council and in keeping with other municipal departments in the City:

- Prepare the DPW 2010 Operating Budget, to include a three percent reduction from the FY2009 budget, similar to the request made of the School Department;
- Reduce the number of DPW employees by four (4) which is the number of vacant positions in the Commissioner's report, "DPW OPERATIONS REVIEW: FORESTRY, PARKS AND CEMETERIES," delivered to the City Council in October 2008 and discussed with the Operations & Oversight Committee in subsequent hearings;
- Take steps to privatize minimal lawn maintenance functions as discussed with the Operations & Oversight Committee, **DOES NOT CARRY**; adopted.

ORDERED: That Thomas Abel's successful renewal certification from the Massachusetts Collectors and Treasurers Association for an additional five years through December 31, 2013, **FILE**; adopted.

ORDERED: That the reappointment of Thomas Abel as the City Comptroller/Treasurer for a term of two years expiring August 29, 2011, **TABLED**; adopted.

Councilor Seymour abstained

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ORDERED: WHEREAS, in the opinion of the City Council of the City of Marlborough, the common convenience and necessity require that EAGER COURT be accepted as a public way

From EAGER COURT To Terminus

and the associated easement be accepted as a municipal easement as shown on plans thereof and as hereinafter described:

DESCRIPTION

Plan entitled "PLAN OF ACCEPTANCE OF EAGER COURT AND MUNICIPAL FLOWAGE EASEMENT IN MARLBOROUGH, MA, DATED OCT. 10, 2008, LAST REVISED 11/10/08, PREPARED BY THOMAS LAND SURVEYORS & ENGINEERING CONSULTANTS, INC., 265 WASHINGTON STREET, HUDSON, MA 01749, RECORDED WITH MIDDLESEX SOUTH REGISTRY OF DEEDS AS PLAN _____ OF 2009" attached hereto as Exhibit A, said plan to be recorded herewith at the Middlesex County South Registry of Deeds;

Title to the roadway known as EAGER COURT and title to the municipal flowage easement as shown on said plan has been granted to the City of Marlborough in a Quitclaim Deed from NRN Realty Group, LLC, 30 Bradford Road, Hudson, MA 01748, said deed to be recorded herewith at the Middlesex County South Registry of Deeds.

IT IS THEREFORE ORDERED THAT:

EAGER COURT be accepted as a public way and its associated easement be accepted as a municipal easement in the City of Marlborough, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Ferro, Schafer, Juair, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy

ORDERED: Application for Special Permit from Omnipoint Communications to install, operate and maintain a wireless communications facility, including a 100-foot flagpole-style tower, antennas, coaxial cables and radio communication equipment cabinets within a proposed fenced compound, at 249 Miles Standish Drive in Marlborough, because Omnipoint declined to provide the City Council, acting by and through its Wireless Communications Committee, with additional information on various issues of relevant concern, including:

- As to coverage –
 - No propagation maps for Omnipoint's nearby Hudson sites;
- As to drainage –
 - No clarification of Omnipoint's confusing first report, and no drainage mitigation plan;
- As to a potential tower collapse on the City's water tank –
 - No report as to the likelihood of collapse, nor as to an emergency plan either for catastrophic damage to the tank or for the safety of the residents;
- As to environmental impact –
 - No study of impact on the area's flora and fauna, nor on the ability of the residents to access the area; and

- As to aesthetic or visual impact –
 - No crane test was performed, nor any photo simulations provided as had been promised at the public hearing, in order to give the Council and the residents any reasonable idea of the tower's visual impact on the neighborhood.

Accordingly, given the lack of information provided by Omnipoint concerning its proposed facility, the City Council voted to **DENY** Omnipoint's Special Permit application; adopted.

Yea Votes: 2 - Nay Votes: 8 - Absent: 0 - Abstain Votes: 1

Yea: Ossing, Ferro

Nay: Clancy, Seymour, Juairé, Schaefer, Pope, Delano, Levy, Landers

Abstain: Vigeant

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:12 p.m.



IN CITY COUNCIL

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MARCH 9, 2009

Marlborough, Mass., _____

ORDERED:

That there being no objection thereto set **MONDAY, APRIL 6, 2009** as date for a **PUBLIC HEARING** on the Application for Revised Special Permit from Attorney Bergeron, on behalf of Toll MA Land Limited Partnership, to construct 69 retirement units on less than 14 acres and to revise current permit conditions accordingly, be and is herewith refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002151



IN CITY COUNCIL

MARCH 9, 2009

Marlborough, Mass.,

ORDERED:

That there being no objection thereto set **MONDAY, APRIL 6, 2009** as date for a **PUBLIC HEARING** on the Application for Special Permit from Hancock Associates, on behalf of Marlborough Savings Bank, for drive-thru teller and ATM at proposed 16,500 sq. foot bank/office building at 81 Granger Blvd., be and is herewith refer to **URBAN AFFAIRS COMMITTEE AND ADVERTISE.**

ADOPTED

ORDER NO. 09-1002152



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

4,
Nancy E. Stevens
MAYOR

Karen A. Kistly
EXECUTIVE AIDE

Diane E. Halper
EXECUTIVE SECRETARY

April 1, 2009

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

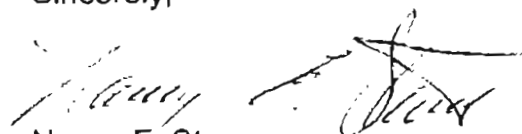
Attached please find a transfer request in the amount of \$75,000.00 to move funds from Account No. 100-35900 (Undesignated Fund) to Account No. 61090006-52322 (Water MR Plant).

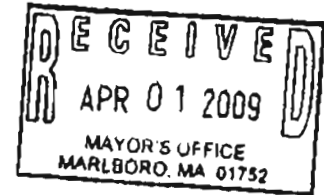
As many of you know, the city supplies its residents and businesses with drinking water through 2 sources; the MWRA and our local supplies at Lake Williams and Millham Reservoir. Historically, our local supplies provide between 20-25% of our total water use while the MWRA makes up the difference. During years when rainfall and snowfall are above average, as they have been for the last couple of years, our local reservoirs are capable of supplying a greater proportion of our total water supply. Currently both Lake Williams and Millham Reservoir are at full capacity and will soon be overflowing their respective spillways. As many of you also know, the city pays far less to produce excess water locally (~\$344 per million gallons) than we would otherwise pay to the MWRA (~\$3,228 per million gallons based on FY09 costs and calendar 2008 consumption).

The fiscally prudent thing to do at this time is to maximize water production at our Millham Water Treatment Facility in order to minimize our use of MWRA water thus saving the city hundreds of thousands of dollars in MWRA costs next fiscal year. Transferring the funds as requested above will enable the DPW to immediately authorize the accelerated production at Millham.

As always, please feel free to call with any questions or concerns.

Sincerely,


Nancy E. Stevens
Mayor



4/2

CITY OF MARLBOROUGH
Department of Public Works
Office of the Commissioner
135 Neil Street
Marlborough, Massachusetts 01752
(508) 624-6910 Ext. 7200
Facsimile (508) 624-7699 TDD (508) 460-3610

MEMORANDUM

TO: MAYOR NANCY E. STEVENS

FROM: RONALD M. LAFRENIERE, P.E. – COMMISSIONER

DATE: MARCH 30, 2009

**RE: MILLHAM WATER TREATMENT PLANT;
EXCESS WATER PRODUCTION**

The City's Millham Water Treatment Plant is operated under contract with the firm of Woodard & Curran. One provision of the contract enables the city to invoke a requirement for the plant to produce water beyond the monthly contractual obligation if and when conditions permit it. Currently the city produces drinking water at a cost approximately 20% less than the amount we must pay to the MWRA. Anytime we are able to produce excess water using our own supplies, it is cheaper for us to do that.

During the first half of this fiscal year, we have been able to produce an unusual amount of water from our local supplies due to the large amount of precipitation we were fortunate to experience last fall and winter. Funding for the line item which is used to pay for our local water is nearly depleted and yet we have much more in supplies that could be used if additional funds are appropriated. By producing more water from our local supplies this year, we will be paying less to the MWRA next year than we otherwise would if we cut back on production at Millham. As mentioned above, for every \$1 we spend this year to produce water locally, we will save between \$4 and \$5 next year in MWRA costs.

In order to continue producing water locally at our current accelerated rate, we request that an additional \$75,000 be appropriated to supplement account 61090006-52322.

cc: Thomas Abel, Comptroller
Doran Crouse, Assistant Commissioner Utilities

TRANSFER REQUEST

FROM ACCOUNT				TO ACCOUNT			
AVAILABLE BALANCE	AMOUNT	ORG · OBJECT	ACCOUNT DESCRIP	AMOUNT	ORG CODE OBJECT	ACCOUNT DESCRIP	AMOUNT AVAIL
Undesignated Fund				Water Service Fund			
\$ 4,039,715.00	\$ 75,000.00	100	35900 Undesignated Fund	\$ 75,000.00	61090006	52322 Water MR Plant	\$ -

Reason: See attachment from Mayor



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen A. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

April 1, 2009

Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

Council Order No. 07100-1543 which provides for an abbreviated budget authorization format as recommended by the Massachusetts Department of Revenue Financial Review and adopted for FY09 by Council Order 08-1001893 is due to expire on June 30, 2009 per its "Sunset Clause" provision.

Under this revised practice, department heads are authorized to transfer funds within their budget lines for all accounts save those which are salary-related with the approval of the Mayor. Salary and interdepartmental transfers continue to require Council approval. In addition, the Auditor provides a monthly summary to the City Council of all intradepartmental transfers.

I respectfully request Council's approval of a one-year extension to the "Sunset Clause" to provide for the continuation of Order No. 07100-1543 through FY10.

As always, please feel free to contact to me with any questions or concerns.

Sincerely,

Nancy E. Stevens
Mayor

Auditor 52

IN CITY COUNCIL



Marlborough, Mass., MAY 12, 2008

ORDERED:

That Council Order No. 07-1001543 **noted below**, which provides for an abbreviated budget authorization format as recommended by the Massachusetts Department of Revenue Financial Review and adopted for FY08 which is due to expire on June 30, 2008 per its "Sunset Clause" provision, be extended for one-year to provide for the continuation of Order No. 07-1001543 through FY09, be and is herewith **APPROVED**.

That the City Council **APPROVE** the Massachusetts Department of Revenue Financial Review Recommendation for adopting an abbreviated budget authorization format for all departments for the FY08 budget process.

Background: The Mass DOR report recommended that the city adopt the best financial practices by approving the FY08 budget as salary and expenditure line items for each department as opposed to the current practice of approving each line item. Department heads would be able to authorize transfers within their department for expenditure line items only. The Auditor will provide a summary of these transfers each month to the City Council. All salary transfers and transfers between departments would require City Council approval. This is for the FY08 budget only, with the provision of a "**Sunset Clause**" that the City Council will assess the results at the end of FY08 to determine if the practice will continue.

ADOPTED

In City Council
Order No. 08-1001893
X 07-1001543

Approved by Mayor
Nancy E. Stevens
Date: ~~May~~ 19, 2008

A TRUE COPY
ATTEST:

City Clerk



IN CITY COUNCIL

Auditor 925

Marlborough, Mass., APRIL 23, 2007

ORDERED:

Suspension of the Rules requested to allow the Mayor to speak – does not carry

ORDERED:

That the City Council **APPROVE** the Massachusetts Department of Revenue Financial Review Recommendation for adopting an abbreviated budget authorization format for all departments for the FY08 budget process.

Background: The Mass DOR report recommended that the city adopt the best financial practices by approving the FY08 budget as salary and expenditure line items for each department as opposed to the current practice of approving each line item. Department heads would be able to authorize transfers within their department for expenditure line items only. The Auditor will provide a summary of these transfers each month to the City Council. All salary transfers and transfers between departments would require City Council approval. This is for the FY08 budget only, with the provision of a "Sunset Clause" that the City Council will assess the results at the end of FY08 to determine if the practice will continue.

Yea: 9 - Nay 2

Yea: Katz, Schafer, Juairc, Webster, Clancy, Towle, Ossing, Pope, Levy

Nay: Ferro, Vigeant

ADOPTED
In City Council
Order No. 07100-1543

Approved by Mayor
Nancy E. Stevens
Date: April 26, 2007

A TRUE COPY

ATTEST:

Christy Y. Lucier
Acting City Clerk



City of Marlborough
Office of the Mayor

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610

Nancy E. Stevens
MAYOR

Karen H. Kisty
EXECUTIVE AIDE

Diane C. Halper
EXECUTIVE SECRETARY

April 2, 2009

City Council President Arthur G. Vigeant
Marlborough City Council
Marlborough City Hall – 2nd Floor
140 Main Street
Marlborough, MA 01752

Honorable President Vigeant and Councilors:

I am writing to update you on the search process for the Director of Personnel. The posting closed as of 5:00 PM on Tuesday, March 31st. We have received a total of thirty-four resumes for this position. Monster.com received three hundred sixty-nine "hits"; of those, ten applied online and eight resumes were received via e-mail.

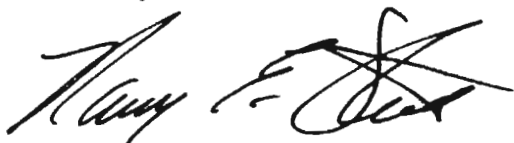
I have formed a new search committee consisting of the following individuals: Jean Kitchen, Southborough Town Administrator; John Petrin, Ashland Town Manager; and Anthony Trodella, Chief Assessor, City of Marlborough. Ms. Kitchen has been the Town Administrator in Southborough for three years and prior to that, she served as Town Administrator in Groton, MA for sixteen years. She has extensive experience hiring at the municipal level. Mr. Petrin was the former Town Administrator in Harvard prior to serving as the Assistant Superintendent of Schools for the City of Marlborough. He currently serves as the Town Manger for the Town of Ashland. Mr. Trodella is currently the Chief Assessor for the City of Marlborough and has extensive interviewing experience in his 20 years of involvement with the Appraisal Foundation in Washington, D.C. serving as chairman of The Appraisal Foundation Advisory Council and member of the Board of Trustees. As a trustee, he served as the Chair of the Trustee Nominating Committee, which was responsible for the interviews and selection of professionals from across the country to serve as Trustees.

The distinguished members of the initial search committee were asked to serve again along with the additional above named individuals; all initial members have respectfully declined unless directed by me to serve. I have decided to respect their wishes and proceed with the second search process using three new members.

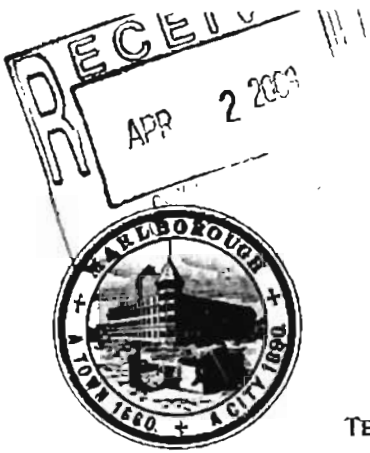
The new search committee has received packets containing all resumes for their review. They will be meeting initially on April 9th to review and decide which applicants will be interviewed. They will then meet the week of April 13 for interviews with a recommendation to me expected soon thereafter. I anticipate having a recommendation for your consideration on the April 27th City Council agenda.

As always please feel free to call with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy E. Stevens". The signature is fluid and cursive, with a large, stylized initial "N" and "S".

Nancy E. Stevens
Mayor



71

**City of Marlborough
Legal Department**

140 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610
LEGAL@MARLBOROUGH-MA.GOV

DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

BEVERLY J. SLEEPER
CHIEF PROCUREMENT OFFICER

KATHERINE M. KIMBER
PARALEGAL

April 2, 2009

Arthur Vigeant
President
Marlborough City Council

RE: Order 08/09-1002083A-1
Special Permit Application
New Cingular Wireless PCS, LLC
860 Boston Post Road East

Dear President Vigeant and Members:

Pursuant to Chapter 200-59C(13) of the Marlborough Zoning Ordinance, I provide this letter as to the legal form of the City Council's proposed findings on the special permit application submitted by New Cingular Wireless PCS, LLC (AT&T) for co-location at 860 Boston Post Road East. The application is for co-location of six (6) wireless communications panel antennas on an existing 140' high wireless communications monopole, and one (1) GPS antenna mounted on a proposed ice bridge, as well as placement of the associated equipment in a 12' x 20' equipment shelter within an existing compound.

I have enclosed a copy of the proposed decision. I certify that that decision is in proper legal form.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure
cc: Martin R. Cohen, Esquire

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**DECISION ON A SPECIAL PERMIT
NEW CINGULAR WIRELESS PCS, LLC
CITY COUNCIL ORDER NO. 08/09-1002083A-1**

Re: 860 Boston Post Road East, Marlborough, MA

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to New Cingular Wireless PCS, LLC, having a usual place of business at 550 Cochituate Road, Suite 13 and 14, Framingham, MA 01701, as provided in the Decision and subject to the following Findings of Fact and Conditions.

EVIDENCE

1. The Applicant is New Cingular Wireless PCS, LLC (“AT&T”), having a usual place of business at 550 Cochituate Road, Suite 13 and 14, Framingham, MA 01701 (hereinafter “Applicant”).
2. Through its Application to City Council for issuance of a Special Permit (hereinafter “Special Permit Application”), the Applicant seeks permission to allow co-location of six (6) wireless communications panel antennas on an existing 140’ high wireless communications monopole, and one (1) GPS antenna mounted on a proposed ice bridge, and a 12’ X 20’ equipment shelter on the ground within an existing compound and associated cables, utilities and equipment (hereinafter “Proposed Wireless Communications Facility Project” or “Proposed WCF Project”), substantially as depicted on a set of plans entitled “Marlborough Rte. 20 East,” by Aerial Spectrum, Incorporated, dated 12/11/08, as submitted with the Special Permit Application, and as revised 3/17/09 (hereinafter “Plans”).
3. The location of the Proposed WCF Project is 860 Boston Post Road East Marlborough, MA and is more particularly identified on the Assessor’s Map of the City of Marlborough as Map 61 of Lot 16 (hereinafter “the Site”). The owner of record for the Site is the CITY OF MARLBOROUGH.
4. The Applicant is a lessee of Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless, which owns the existing 140’ high wireless communications monopole (the “VZW Tower”). The City of Marlborough is the owner of the underlying compound area.
5. The Site is zoned Rural Residential (RR) and Business (B). The Proposed WCF is located in the Rural Residential (RR) portion of the Site. Wireless

Communication Facilities are allowed by grant of Special Permit in the Rural Residential (RR) Zoning District.

6. The Special Permit is being sought pursuant to Article VI, Section 200-25 and Article VIII, Section 200-59 of the Zoning Ordinance set forth in the City Code of the City of Marlborough (hereinafter "Marlborough Zoning Ordinance").
7. Pursuant to the Rules and Regulations of Application for Special Permit (hereinafter "Rules and Regulations"), the Building Commissioner, on behalf of the Planning Director, certified that the Special Permit application materials are complete and conform to said Rules and Regulations and that the Plans conform in all respects to the City Code.
8. The Applicant has complied with all of the applicable rules of the Rules and Regulations.
9. The City of Marlborough City Council held a public hearing on the Proposed WCF Project on January 26, 2009, for which proper notice was published and for which proper notice had been given to all parties entitled to notice under the law.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing demonstrating that the Proposed WCF Project meets all the applicable Special Permit criteria of Article VI, Section 200-25 and Article VIII, Section 200-59 of the Marlborough Zoning Ordinance.
11. The Applicant requested waivers of certain Preliminary Site Plan requirements of Article VIII, § 200-59 (C) (5) and (6) of the Marlborough Zoning Ordinance governing special permits, on the grounds that (a) the VZW Tower exists; (b) the approved plans for the VZW Tower show the required information; (c) AT&T is making a minimal addition to the Site in the form of the co-located Proposed WCF Project on and next to the existing, approved VZW Tower; and (d) some of the requirements do not apply to a tower at all. The Applicant subsequently withdrew its request as to § 200-59 (C) (5), and the Applicant now agrees that § 200-59 (C)(6) is not applicable to the Proposed WCF Project.
12. The Applicant provided further oral testimony and demonstrative evidence to the City Council's Wireless Communications Committee regarding the Proposed WCF Project's compliance with the applicable Special Permit criteria.
13. The Council, in reviewing the Applicant's Special Permit Application, considered the Review Standards and Development Requirements, as enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the Marlborough Zoning Ordinance, applicable to the Proposed WCF Project.

BASED UPON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS

- A) The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council pertaining to the said Special Permit Application.
- B) The Site is an appropriate location for the Proposed WCF Project and the Proposed WCF Project is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions of this decision.
- C) The Applicant has complied with the applicable Review Standards and Development Requirements pertaining to Wireless Communications Facilities, enumerated in Article VI, Section 200-25 and Article VIII, Section 200-59 of the City of Marlborough Zoning Ordinance, by siting, designing and screening its Proposed WCF Project to minimize adverse impact on the abutting neighborhood and on nearby residential properties.
- D) The Council, pursuant to its authority under M.G.L. Chapter 40A and the Marlborough Zoning Ordinance, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS NUMBERED 1 THROUGH 13:**
 - 1) The Proposed WCF Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended during the application/hearing process, and in compliance with the Conditions of the Grant of Special Permit as well as with the applicable conditions set forth in Chapter 200-25F of the Marlborough Zoning Ordinance.
 - 2) All plans, site evaluations, briefs and other documentation provided by the Applicant as part of its Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.
 - 3) The Applicant shall comply with all rules, regulations, ordinances and statutes of the City of Marlborough, the Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance and operation of the Proposed WCF Project.
 - 4) All terms, conditions, requirements, approvals, plans and drawings required hereunder are hereby made a part of and incorporated herein as a condition to the issuance of this Special Permit.

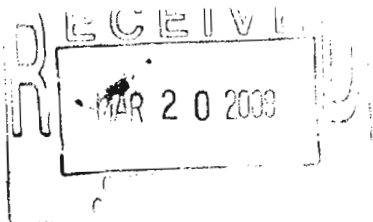
- 5) Applicant shall minimize the visual impacts of the Proposed WCF Project by screening and/or color coordination as may be depicted on the Plans and other demonstrative evidence submitted as part of the Application for Special Permit.
- 6) Applicant shall pay to the City of Marlborough Open Space Account #100-2410-44515, as mitigation for the alleged impacts caused by the subject of this Special Permit, the annual sum of One Thousand Five Hundred (\$1,500.00) dollars, the first payment due and payable at the time of the issuance of the building permit hereunder, or within one year of the approval of Special Permit, whichever is earlier, and the subsequent payments to be due and payable on January 2, or the first business day thereafter, of each calendar year in which the WCF referenced in this Special Permit is still in operation. Failure to make the payment in a timely manner shall constitute a violation of the Special Permit, and the Applicant shall pay an additional sum of \$500 per quarter or portion thereof after the payment due date that the Applicant has failed to make payment.
- 7) Applicant intends to maintain back-up batteries in its proposed equipment equipment shelter. Any disposal of such batteries shall be conducted in a safe manner and in compliance with all applicable environmental laws and regulations.
- 8) No operation of this Proposed WCF Project shall commence until the Applicant has received written approval from the Building Inspector that all the conditions herein have been satisfied.
- 9) The Proposed WCF Project shall be subject to site plan review, if applicable.
- 10) Applicant's co-axial cables shall run inside the monopole structure.
- 11) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.
- 12) As soon as practicable but in any event within one (1) month after the date when a certificate of use and occupancy has been issued to the Applicant by the City of Marlborough's Building Commissioner for the Proposed WCF Project, Applicant shall submit a written report to the City Council; provided, however, that if the Proposed WCF Project has not yet become operational within the one-month period after said issuance date, then the Applicant must immediately provide the City Council with written

notification as to the date when the Proposed WCF Project does become operational and, further, must submit said written report within one (1) month after said operational date. The written report to the City Council shall: i) provide measurements as to the actual output of radio frequency energy emitted by the Proposed WCF Project; ii) include a professional opinion by a third party certifying that the Proposed WCF Project fully complies with all applicable radio frequency emission standards promulgated by the Federal Communications Commission (“FCC”) and any other applicable health and safety standards; and (iii) provide measurements of the actual output of the total radio frequency energy being emitted by all Wireless Communications Facilities (as defined in Section 200-25 of the Marlborough Zoning Ordinance) then located at the Site. The Applicant agrees to operate its Proposed WCF Project in compliance with all applicable radio frequency emission standards promulgated by the FCC and any other applicable health and safety standards. In the event that there are any changes in or upgrades to the Proposed WCF Project that may increase the actual output of radio frequency energy emitted by the Proposed WCF Project, the Applicant shall submit a letter to the City Council as soon as practicable but in any event within one (1) month after the date of completion of those changes or upgrades. The letter shall: i) state what the changes or upgrades are; (ii) provide measurements specifying how the actual output of radio frequency energy emitted by the Proposed WCF Project has been increased; (iii) provide measurements of the actual output of all radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site; and iv) include a professional opinion by a third party certifying that the Applicant’s changes or upgrades have not caused the total radio frequency energy being emitted by all hereinbefore-defined Wireless Communications Facilities then located at the Site to exceed any applicable radio frequency emission standards promulgated by the FCC and any other applicable health and safety standards.

- 13) Applicant, solely at its own expense and in a manner acceptable to the City of Marlborough, shall remove all City of Marlborough equipment from the existing Fire Department (F.D.) equipment shelter shown on the Plans and shall relocate the City’s equipment inside the Applicant’s proposed equipment shelter shown on the Plans. Applicant shall grant the City of Marlborough access to the City’s equipment inside the Applicant’s proposed equipment shelter at all times, 24 hours per day, 7 days per week, it being expressly understood by the Applicant that the City’s equipment is for emergency communications involving or relating to the health, safety and welfare of the public. In the event either that the Applicant’s special permit is revoked by the City, or that the Applicant’s lease with Verizon Wireless expires or is terminated, then the Applicant, solely at its own expense and in a manner acceptable to the City of

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Marlborough, shall remove all City of Marlborough equipment from inside the Applicant's proposed equipment shelter shown on the Plans and shall relocate the City's equipment to a Fire Department equipment shelter at the approximate location currently shown on the Plans.



\$ 25.00 pd

MARLBOROUGH, MASS., March 20 192009

TO THE CITY COUNCIL:

The undersigned Tony BITAR (Hannush Jewelers) respectfully requests that he be granted a Junk Dealer License

TO BUY GOLD AT HANNUSH JEWELERS, SOLOMON ROAD MALL

P. O. Address 601 DONALD GUNCH BLVD. MARLBOROUGH, MA 01501
(508) 303-6595

IN CITY COUNCIL

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Referred to Committee on Public Safety.

.....Clerk.

REPORT ON THE ABOVE PETITION

IN CITY COUNCIL

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The Committee on Public Safety, to whom the above petition was referred, having considered the same, report in favor of granting the same.

..... } Committee

IN CITY COUNCIL

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Accepted and report of committee adopted.

Attest:.....Clerk.

Issued.....

MetroWest

Growth Management Committee

160 Waverley Street
Framingham, MA 01702
www.metrowestgrowth.org

Philip Jack, Chairman, Ashland Selectman
Ken Soderholm, Vice-Chairman, Natick Planning Board
Charles Gaffney, Clerk, Southborough Planning Board
Dennis Giombetti, Framingham Selectman
Owen Dugan, Wellesley Selectman
Salvatore Giorlandino, Southborough Selectman
Marc Draisen, MAPC Executive Director
Donna Jacobs, Director

508.620.6677
508.620.6678
508.620.6676 fax

April 1, 2009

Council President Arthur G. Vigeant
Marlborough City Council
140 Main Street Marlborough
MA 01752

Re: Appointment of City Planner

Honorable President Vigeant and Councilors:

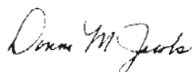
At the request of Mayor Nancy Stevens, I am writing to you about the advantages of a full time City Planner. As many of you know, the MetroWest Growth Management Committee was established twenty-five years ago, and serves the MetroWest subregion of the Metropolitan Area Planning Council. Since its inception, MWGMC has served as a think tank and advocate for locally initiated regional solutions to policy and planning challenges shared by MetroWest communities. We regularly bring together elected officials and planning staff from neighboring communities to address regional growth management issues.

MetroWest is a dense, diverse, congested and highly successful hub of economic activity. This activity generates jobs, demands for housing, pressure to develop open space and lots of traffic. MetroWest continues to be one of the fastest growing regions in the state. In our work with MetroWest communities, we can advise that a community without a full-time professional planner is at a distinct disadvantage in many ways. A full-time City Planner can work to ensure that Marlborough:

- Fully evaluates proposed developments using planning expertise to address the multitude of complex and politically sensitive issues that surround new development
- Issues defensible decisions on development proposals to reduce legal costs,
- Develops new growth in areas where it is desired and infrastructure already exists,
- Preserves the City's valuable open space and natural resources,
- Engages the community in the planning process, and
- Ensures that the City has plans in place that will result in the type of development that is desired by the City of Marlborough.

MWGMC serves as a resource to our members and assists them in meeting their needs, but we cannot serve as a replacement for a City Planner. I encourage you to hire a full-time City Planner to ensure that Marlborough benefits from being in one of the fastest growing areas of the Commonwealth.

Sincerely,



Donna Jacobs, Director



Metropolitan Area Planning Council

60 Temple Place, Boston, Massachusetts 02111 617/451-2770 Fax 617/482-7185

Serving 101 cities and towns in metropolitan Boston

April 1, 2009

Council President Arthur G. Vigeant
Marlborough City Council
140 Main Street
Marlborough, MA 01752

Re: City Planner appointment

Honorable President Vigeant and Councilors:

At the request of Mayor Nancy Stevens, I am writing to you to outline for the City Council the advantages for a community to have dedicated full time planning staff.

As many of you are aware, the Metropolitan Area Planning Council is the regional planning agency that serves the 101 communities of the greater Boston region. Since its inception in 1963, the MAPC has promoted inter-local cooperation around issues of shared concern. Today, we also encourage communities to work together to promote smart growth – growth in areas where infrastructure already exists, while preserving open space and natural resources, including energy resources, whenever possible.

In our work with municipalities, it is apparent that communities without a full-time planning staff are at a disadvantage relative to municipalities with such staff. A municipal planner

- leads, manages and provides the high-level expertise to complex and politically sensitive planning studies, including a municipal master plan,
- helps to evaluate large and small developments, to ensure that the developments are in keeping with the existing zoning and other regulation, and also arranges for appropriate mitigation for these developments,
- assists the planning board in writing defensible decisions, thereby saving costs of possible legal challenges by developers,
- keeps the community aware of various state and federal programs (including transportation funding) for which the municipality may be eligible to apply for funds to carry out the goals of the community, and also completes the applications for many of these grants,
- plays a lead role in making improvements in permitting efficiency and customer service,
- provides specialized knowledge and applied statistical analysis to support policy decisions and long-range planning goals, and
- assists the municipality in planning ahead for appropriate development of the city, including future development of tax-generating land uses, to be able to pay for services for city residents.

While MAPC provides as much assistance as we can to help communities that lack planners, we have a limited budget and ability to provide these services. Sometimes we are not even aware of the needs of a community, since it is often the planner that is the primary contact for requesting assistance from MAPC. I therefore encourage you to take the step to hire a municipal planner to help you to plan for the future of Marlborough.

If you have any questions, please do not hesitate to call me.

Sincerely,

Marc D. Draisen
Executive Director

Jay Ash, *President* Michelle Ciccolo, *Vice President* Grace S. Shepard, *Treasurer* Marilyn Contreas, *Secretary*

Marc D. Draisen, *Executive Director*